

EXHIBIT 5

David Sujkowski
July 06, 2023

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUSTIN GUY, individually and on
behalf of those similarly situated,
Plaintiff,

vs.

Case No. 20-cv-12734-MAG-EAS

HON. MARK A. GOLDSMITH

ABSOPURE WATER COMPANY, LLC
a domestic limited liability company,
Defendant.

The Deposition of DAVID SUJKOWSKI,
Taken in Carleton, Michigan,
Commencing at 4:05 p.m.,
Thursday, July 6, 2023,
Before Laurie R. Mayer, CSR-5385.

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2 to 5

<p>1 REMOTE APPEARANCES: 2 3 ANDREW R. FRISCH 4 8151 Peters Road, Suite 4000 5 Plantation, Florida 33324 6 (954) WORKERS 7 afrisch@forthepeople.com 8 Appearing on behalf of the Plaintiff. 9 10 MICHAEL O. CUMMINGS 11 Cummings, McClorey, Davis & Aho, P.L.C. 12 1185 Avenue of The Americas, Third Floor 13 (212) 547-8810 14 mcummings@cnda-law.com 15 N.Y. Bar No. 2701506 16 Appearing on behalf of the Defendant. 17 18 19 20 21 22 23 24 25</p>	<p>Page 2</p>	<p>1 Carleton, Michigan 2 Thursday, July 6, 2023 3 4:05 p.m. 4 5 DAVID SUJKOWSKI, 6 was thereupon called as a witness herein, and after 7 having first been duly sworn to testify to the truth, 8 the whole truth and nothing but the truth, was 9 examined and testified as follows: 10 EXAMINATION 11 BY MR. CUMMINGS: 12 Q. Mr. Sujkowski, would you please state your full name 13 for the record? 14 A. David Andrew Sujkowski. 15 Q. And what is your current address? 16 A. [REDACTED] Michigan 17 48183. 18 Q. Thank you. Have you ever had your deposition taken 19 before? 20 A. I have not, no. 21 Q. I will go over some of the ground rules and some of 22 the things that will happen so you will have an 23 understanding. The first thing is, do you understand 24 that you are under oath and that potentially if you 25 said anything knowingly false, you might be subject to</p>	<p>Page 4</p>
<p>1 2 3 WITNESS 4 DAVID SUJKOWSKI 5 6 EXAMINATION 7 BY MR. CUMMINGS: 8 EXAMINATION 9 BY MR. FRISCH: 10 RE-EXAMINATION 11 BY MR. CUMMINGS: 12 13 EXHIBITS 14 15 EXHIBIT 16 (Exhibits retained by counsel.) 17 18 EXHIBIT 1 19 EXHIBIT 2 20 EXHIBIT 3 21 EXHIBIT 4 22 EXHIBIT 5 23 24 25</p>	<p>Page 3</p>	<p>1 penalties for perjury? 2 A. Yes. 3 Q. And as you just did, please continue to answer 4 questions affirmatively, yes or no verbally, rather 5 than nodding your head. That will help us 6 tremendously. 7 A. Understood. 8 Q. And, also, please try to listen to my full question. 9 Sometimes the question and the answer will seem 10 obvious to you when I'm halfway through, but I would 11 still please ask you to wait until I finish my 12 question, so for the court reporter both to get it 13 down clearly in the transcript and to also give your 14 attorney any chance to object. Do you understand 15 that? 16 A. Yes. 17 Q. And, also, I would like you not to guess for any 18 answers that -- or any questions that I ask. It would 19 be fine if you can give an approximation, say 20 approximately when or how long or something, but not 21 guess. Do you understand that? 22 A. Yes. 23 Q. And I'm going to ask, would you please, if you do not 24 understand my question either because of audio issues 25 or you don't understand it, please let know, okay?</p>	<p>Page 5</p>

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6 to 9

<p style="text-align: right;">Page 6</p> <p>1 A. Understood.</p> <p>2 Q. Now, is there anything going on with you today?</p> <p>3 Sometimes medication or other drugs or other issues</p> <p>4 that might prevent you from understanding my questions</p> <p>5 and answering them fully?</p> <p>6 A. No.</p> <p>7 Q. Now, you are here today because you were once employed</p> <p>8 at Absopure Water Company; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall the dates that you were there?</p> <p>11 A. February of 2021 to March of 2022.</p> <p>12 Q. What was your position or positions when you were</p> <p>13 there?</p> <p>14 A. My job title was listed as sales and service</p> <p>15 specialist.</p> <p>16 Q. And for what reason did you leave in March of 2022?</p> <p>17 A. I found another job opportunity.</p> <p>18 Q. Are you currently employed?</p> <p>19 A. Yes.</p> <p>20 Q. What is your current position and employer?</p> <p>21 A. I am a senior accountant with Imlach Movers in</p> <p>22 Trenton.</p> <p>23 Q. And for the first part here, I'm going to ask some</p> <p>24 questions about your job duties when you were with</p> <p>25 Absopure. And I would like to step you through --</p>	<p style="text-align: right;">Page 8</p> <p>1 can -- typically?</p> <p>2 A. Five-gallon water jugs, cases of water. And then</p> <p>3 after -- any coolers, if you retrieved those, as well,</p> <p>4 if you had coolers for the day, as well.</p> <p>5 Q. And how did the coolers get on the truck?</p> <p>6 A. I would put them on there. I would find the coolers</p> <p>7 that were a part of my route after I checked my</p> <p>8 inventory. Then I would go find my coolers, then</p> <p>9 place them on the truck.</p> <p>10 Q. Did you ever put any -- and the coolers were to be --</p> <p>11 was it correct that these coolers were to be placed in</p> <p>12 customer locations?</p> <p>13 A. Yes.</p> <p>14 Q. Did you ever have any other equipment that you placed</p> <p>15 in customer locations?</p> <p>16 A. There would be special items like coffee or any sort</p> <p>17 of coffee accessories that were picked up before you</p> <p>18 would leave the facility.</p> <p>19 Q. Did you ever pick up a coffee maker or anything like</p> <p>20 that?</p> <p>21 A. Yes, periodically, there would be a coffee maker or</p> <p>22 say a cup sleeve for a water cooler that someone</p> <p>23 requested and specialty items like that that would</p> <p>24 come along every now and then.</p> <p>25 Q. And was there a typical amount of coolers that you</p>
<p style="text-align: right;">Page 7</p> <p>1 just so you understand, I will step you through your</p> <p>2 day. Did you work at the Plymouth facility?</p> <p>3 A. Yes.</p> <p>4 Q. And what was the very first thing you did when you</p> <p>5 arrived at work each day?</p> <p>6 A. I held my badge up to their time clock, or I guess let</p> <p>7 them know that I was there for the day.</p> <p>8 Q. Did you do that every day?</p> <p>9 A. Yes.</p> <p>10 Q. And what did you do next?</p> <p>11 A. I would go to my mailbox and retrieve my paperwork.</p> <p>12 Q. And what was the paperwork that you retrieved?</p> <p>13 A. It consisted of special deliveries, my route, all of</p> <p>14 my stops for that day and any other additional notes</p> <p>15 that needed to be passed along.</p> <p>16 Q. I apologize. I forgot that I had not put my video on.</p> <p>17 So now you can see me. And what did you do after</p> <p>18 retrieving your paperwork?</p> <p>19 A. I went through it, made any notes that I needed --</p> <p>20 that I wanted to personally, for the day.</p> <p>21 Q. And then what did you do next?</p> <p>22 A. I took my paperwork and went out to my truck to do an</p> <p>23 inventory of what was on there to verify everything</p> <p>24 was correct.</p> <p>25 Q. And what kind of products were on the truck -- and you</p>	<p style="text-align: right;">Page 9</p> <p>1 would take with you on any given day?</p> <p>2 A. It would range quite a bit. I would say on a typical</p> <p>3 day, you were looking at, let's say three to four.</p> <p>4 Q. Was there a maximum number that you took with you?</p> <p>5 A. I believe I -- about 30 of them.</p> <p>6 Q. Okay. How often, to the best you can recall, would</p> <p>7 you take say more than 10 -- or 10 or more?</p> <p>8 A. I would say -- let's say 5, 5 to 10 times, I did that.</p> <p>9 Q. And that would be during the entire time that you</p> <p>10 worked?</p> <p>11 A. During my duration there, yes.</p> <p>12 Q. Okay. And after you obtained the coolers or whatever</p> <p>13 other equipment and checked or -- and looked at the</p> <p>14 inventory on your truck, what did you do next?</p> <p>15 A. You would -- if the inventory was correct, then you</p> <p>16 would pull your truck around and load everything into</p> <p>17 the handheld for your supervisor to check off on.</p> <p>18 Q. And what was the handheld that you just mentioned?</p> <p>19 A. Well, a handheld device that preloaded our inventory</p> <p>20 and our routes for the day, to check off that each</p> <p>21 delivery, each stop was completed. And then once it</p> <p>22 was completed, it printed out a receipt to hand to the</p> <p>23 customer.</p> <p>24 Q. And what do you mean by preloaded? Was that -- was</p> <p>25 some information in the handheld when you first got it</p>

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10 to 13

<p style="text-align: right;">Page 10</p> <p>1 in the morning?</p> <p>2 A. Our route was for the day. Once our supervisor</p> <p>3 checked off, it was preloaded on there. So all of our</p> <p>4 stops coincided with what was on our paperwork.</p> <p>5 Q. And did, at some point in the morning, did you pick up</p> <p>6 the handheld or get it?</p> <p>7 A. Yes. Typically, I would -- that would be one of the</p> <p>8 first things I would do. You would get your handheld,</p> <p>9 yes.</p> <p>10 Q. Was that before or after you got your paperwork, for</p> <p>11 example?</p> <p>12 A. It would be right at the same time.</p> <p>13 Q. And you said you would -- you said something about --</p> <p>14 I don't want to -- if I understand correctly, about</p> <p>15 putting the inventory into the handheld when you got</p> <p>16 to your truck. What would that be?</p> <p>17 A. Yeah. How I typically did it was, I would put the</p> <p>18 inventory into the handheld once I got back to the</p> <p>19 office. I verified everything on my paperwork as far</p> <p>20 as inventory being complete, and then I would load it</p> <p>21 into the handheld at the office right before handing</p> <p>22 it to my supervisor.</p> <p>23 Q. And how did you -- go ahead, please.</p> <p>24 A. Yeah. Right before I handed it to my supervisor for</p> <p>25 him to go through his process.</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yes, I guess that -- yeah, you would go verify that</p> <p>2 they had the inventory of coffee on hand, and you</p> <p>3 would enter that on to your inventory sheet and then</p> <p>4 proceed to go to the manager for the final checkoff.</p> <p>5 Q. And, again, after you -- the final checkoff with the</p> <p>6 manager, what did you do then?</p> <p>7 A. Then they would have us just kind of do a walkthrough</p> <p>8 with the truck, make sure the truck was in good</p> <p>9 operating conditions, and I guess that would coincide</p> <p>10 with the final checkoff. They would do a walkthrough</p> <p>11 with the truck, make sure it was in good conditions.</p> <p>12 And we would go through this little checklist, I</p> <p>13 guess, of making sure everything on the truck was</p> <p>14 okay, and if there were any issues to note them.</p> <p>15 Q. Did you have a name for the checklist that you went</p> <p>16 through or a term you used for it?</p> <p>17 A. Not specifically, not that I can recall.</p> <p>18 Q. Did you go through that checklist with the manager?</p> <p>19 A. Yes, there were -- yeah, on a typical day, we would go</p> <p>20 through the checklist, and they would make sure that</p> <p>21 everything was good to go.</p> <p>22 Q. And you did that -- was this after you drove your</p> <p>23 truck out of the warehouse area?</p> <p>24 A. Yes, yeah, the truck would be out in front of the</p> <p>25 office for the supervisor to observe.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. I see. And how would you load it into the handheld?</p> <p>2 A. I would just match up item numbers with what was on</p> <p>3 the handheld and with what was on my physical</p> <p>4 paperwork or my inventory sheet. And then that's --</p> <p>5 make sure everything agreed.</p> <p>6 Q. And you said you gave it to your manager for his</p> <p>7 process. What was the manager's process that you</p> <p>8 mentioned?</p> <p>9 A. Specifically, I don't know as far -- it was basically</p> <p>10 handed to him, and I think it was just kind of like a</p> <p>11 final checkoff like, yeah, he's ready to go. That</p> <p>12 would be my best understanding.</p> <p>13 Q. I see. And then what did you do after handing it off</p> <p>14 and -- I guess, I assume you got it back from the</p> <p>15 manager then?</p> <p>16 A. Uh-huh.</p> <p>17 Q. And then what would you do after that?</p> <p>18 A. If I had any special items, like coffee, anything</p> <p>19 along those lines, go and retrieve those to put onto</p> <p>20 the truck.</p> <p>21 Q. And when you retrieved, did you also make some input</p> <p>22 into the handheld about the coffee items?</p> <p>23 A. Yes, yes. That would be included, yeah.</p> <p>24 Q. So would you do that before you gave the handheld to</p> <p>25 the manager or after?</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. And once that inspection off the checklist was done,</p> <p>2 what did you do then?</p> <p>3 A. Then once that was done, the handheld was all set,</p> <p>4 everything was -- supervisors checked off, then you</p> <p>5 were ready to proceed, start your route.</p> <p>6 Q. Okay. Now, is there something that was called</p> <p>7 checking out the truck?</p> <p>8 A. I guess if that type of terminology was used, then</p> <p>9 it's nothing that I was familiar with.</p> <p>10 Q. Was there some kind of input into the handheld that</p> <p>11 signified that your manager -- you and your manager</p> <p>12 had agreed to the inventory that was on the truck that</p> <p>13 day?</p> <p>14 A. Yes, two receipts of the printout, and we would each</p> <p>15 initial one copy of the receipt.</p> <p>16 Q. Okay. And was there something that you pressed or did</p> <p>17 on the handheld at that point?</p> <p>18 A. No, he would go through his, and then the receipt --</p> <p>19 his process. Then he would -- then it would print out</p> <p>20 on the printer, and then we would each initial, and he</p> <p>21 would keep a copy, and then I would keep a copy</p> <p>22 throughout the day on my route.</p> <p>23 Q. Okay. How long would it typically take from the time</p> <p>24 you swiped, you said your card, or put your card by</p> <p>25 the sheet in the morning until the time you finished</p>

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14 to 17

<p style="text-align: right;">Page 14</p> <p>1 your printing out the receipts with your manager? How</p> <p>2 much time would that typically take on any given day?</p> <p>3 A. I would say typically like 30 to 40 minutes.</p> <p>4 Q. Okay. Were there times when it was significantly</p> <p>5 shorter or longer?</p> <p>6 A. I wouldn't say significantly shorter. If there were</p> <p>7 days that the inventory was incorrect or the truck was</p> <p>8 not preloaded altogether, then there were days that</p> <p>9 was significantly longer.</p> <p>10 Q. How long could it be?</p> <p>11 A. Anywhere to an hour, an hour and a half.</p> <p>12 Q. Okay. If you can, how long would -- how often would</p> <p>13 you say -- you said, I believe, 30 to 40 minutes. How</p> <p>14 often was it longer than 45 minutes in this morning</p> <p>15 process from the time you came in until the time you</p> <p>16 print out the receipts?</p> <p>17 A. If I had to, I would say that would happen a couple</p> <p>18 times a month. I would say two to three times a</p> <p>19 month.</p> <p>20 Q. Did you ever fuel the truck?</p> <p>21 A. No.</p> <p>22 Q. Then once you print out the receipts, you said you</p> <p>23 would -- would you start out on driving the truck for</p> <p>24 the day?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 they're taking, what quantity of product they're</p> <p>2 taking and deliver it to them. The only difference is</p> <p>3 there's no empty water jugs for those.</p> <p>4 Q. I see. And you mentioned something about printing out</p> <p>5 receipts in the handheld. Were you printing receipts</p> <p>6 while you were making stops on your routes?</p> <p>7 A. Yes.</p> <p>8 Q. Now, were you ever receiving any cash or checks from</p> <p>9 customers at your routes?</p> <p>10 A. Yes, there were some people that paid cash on</p> <p>11 delivery.</p> <p>12 Q. And, approximately, how long did it typically take you</p> <p>13 to do your route?</p> <p>14 A. With it being the downtown Detroit route, there were a</p> <p>15 lot of, I would say, detours. So, honestly, most days</p> <p>16 it would be difficult to finish my route. So I was</p> <p>17 out there from -- basically all day and did as much as</p> <p>18 I could.</p> <p>19 Q. By all day, could you give an approximation on hours</p> <p>20 that it would take?</p> <p>21 A. I would stay out there until most businesses closed,</p> <p>22 so about 5:00 -- between 4:30 and 5:00 is when I would</p> <p>23 head back.</p> <p>24 Q. Going back to the very beginning of the day, what time</p> <p>25 or times did you typically arrive first at work in the</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Were you assigned a particular route?</p> <p>2 A. Most of my time was spent in the downtown Detroit</p> <p>3 area.</p> <p>4 Q. Do you recall if that was given a route number?</p> <p>5 A. If it was, I do not recall what it was.</p> <p>6 Q. Okay. And how many stops were typically on your</p> <p>7 route?</p> <p>8 A. On a given day, 30 to 40.</p> <p>9 Q. And could you run -- briefly run through what you</p> <p>10 would do at each stop?</p> <p>11 A. A normal stop would consist of looking at a handheld</p> <p>12 or the paperwork for the type of water and quantity</p> <p>13 that a particular customer took, and then proceed to</p> <p>14 go to the customer, drop off, deliver their water and</p> <p>15 take their empty bottles.</p> <p>16 Q. And when you said -- was that for a residential</p> <p>17 customer?</p> <p>18 A. That would be for residential and business customers.</p> <p>19 Q. Okay. Did you -- about what percentage of your</p> <p>20 customers that you can recall received coffee products</p> <p>21 of some kind?</p> <p>22 A. I would say five percent.</p> <p>23 Q. Okay. And would the -- your activities at a stop with</p> <p>24 coffee products be any different?</p> <p>25 A. No, it would be the same process, check what product</p>	<p style="text-align: right;">Page 17</p> <p>1 morning?</p> <p>2 A. I would typically arrive between -- any times between</p> <p>3 6:45 and 7:30.</p> <p>4 Q. I see. And then you mentioned typically it would be</p> <p>5 30 to 40 minutes before you got on the road after</p> <p>6 that; is that correct?</p> <p>7 A. Correct, yes.</p> <p>8 Q. Okay. Then what happened -- now, you said you -- is</p> <p>9 it correct then that you said you typically did not</p> <p>10 get to all of your stops on any given day?</p> <p>11 A. More times than not, yes, that is correct.</p> <p>12 Q. And what would happen if you didn't get to your stops</p> <p>13 on a particular day?</p> <p>14 A. They would get moved to the next day, and then I would</p> <p>15 make a priority to get to them, yeah.</p> <p>16 Q. Did you find yourself in situations where you got</p> <p>17 behind on making stops where you couldn't -- there</p> <p>18 were more -- do you understand what I mean, that you</p> <p>19 couldn't quite catch up the next day or in a number of</p> <p>20 days? Did that occur?</p> <p>21 A. Yes, yes.</p> <p>22 Q. And what would happen in those situations?</p> <p>23 A. I mean, it would just be a situation where you would</p> <p>24 almost have to prioritize. If there was special stops</p> <p>25 or if there were call-ins, you would have to</p>

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18 to 21

<p style="text-align: right;">Page 18</p> <p>1 prioritize, I guess, on a level of importance. If you</p> <p>2 got to know your customers and you got to kind of get</p> <p>3 a good feel, then you could say, okay, I think they're</p> <p>4 going to be good for a day or two until I can get to</p> <p>5 them.</p> <p>6 Q. I see. Did you ever have to do an extra route or an</p> <p>7 extra set of deliveries to catch up?</p> <p>8 A. No. Well, I did have to work -- there were some</p> <p>9 Saturdays that we would work as if we -- during a busy</p> <p>10 time, I would say. There was a -- so then we would</p> <p>11 work six days that week to help play catchup.</p> <p>12 Q. How often did you work on Saturdays?</p> <p>13 A. During my time there, I would say I worked five or six</p> <p>14 Saturdays.</p> <p>15 Q. The total time, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Now, once you finished your route for the day,</p> <p>18 what steps did you take?</p> <p>19 A. You would go into the -- you would drive back. You</p> <p>20 would get to the facility. Then you would go straight</p> <p>21 to the warehouse. And one of the warehouse workers</p> <p>22 would verify your inventory and get your empties off</p> <p>23 the truck. And then you would pull the truck around</p> <p>24 and park it and proceed to the office.</p> <p>25 Q. How did the warehouse worker verify your inventory?</p>	<p style="text-align: right;">Page 20</p> <p>1 for the day. Then you would -- if they were</p> <p>2 available, you would go to your supervisor and then</p> <p>3 discuss the route for the day and then preview the</p> <p>4 next day's route.</p> <p>5 Q. And after meeting with your supervisor, what would you</p> <p>6 do?</p> <p>7 A. If everything for the next day's route looked good, he</p> <p>8 would show you your pay for the day, how much you</p> <p>9 earned in commission, and then you would -- he would</p> <p>10 print out an inventory sheet and a -- I guess a --</p> <p>11 like it's a lot (phonetic) sheet -- or a breakdown of</p> <p>12 your truck, and you would go through how you would</p> <p>13 like your truck loaded for the next day.</p> <p>14 Q. Have you ever heard the term, load sheet?</p> <p>15 A. Yes, load sheet, yeah. That's what I was trying to</p> <p>16 think of, yeah.</p> <p>17 Q. And that was a document you filled out to determine</p> <p>18 what would be loaded on your truck the following day;</p> <p>19 is that correct?</p> <p>20 A. Yes, correct.</p> <p>21 Q. Okay. Who were the -- your supervisor or supervisors</p> <p>22 that you met with at the end of the day there?</p> <p>23 A. It was primarily Tony. He was primarily the one that</p> <p>24 would work in the afternoons when we got -- or</p> <p>25 evenings when we got back. And then every now and</p>
<p style="text-align: right;">Page 19</p> <p>1 A. He would -- you would open up all your doors and walk</p> <p>2 around the truck and check the inventory on it.</p> <p>3 Q. During this part of the verifying, did the warehouse</p> <p>4 worker do anything with the handheld device that you</p> <p>5 had?</p> <p>6 A. Yes, he would have to do it, what I would deem a</p> <p>7 check-in process, enter the inventory for each</p> <p>8 particular product. Then after he was done with his</p> <p>9 process, a receipt would print out and he would</p> <p>10 initial.</p> <p>11 Q. And then after receiving that receipt that he</p> <p>12 initialed, what did you do next?</p> <p>13 A. Then you -- that's -- at that point, you would get</p> <p>14 back and then close up the truck, drive around and</p> <p>15 then park the truck and collect everything.</p> <p>16 Q. Then after that, what did you do?</p> <p>17 A. Then you would proceed to the office and then you</p> <p>18 would take your handheld, put that and any cash you</p> <p>19 may have acquired throughout the day and your</p> <p>20 receipts, and give it to who I believe was an</p> <p>21 accounting individual.</p> <p>22 Q. Okay. And then did you do anything after that?</p> <p>23 A. They would go through their process, collect all the</p> <p>24 receipts, cash, give you your handheld and printer,</p> <p>25 say you're all set, put your handheld away to charge</p>	<p style="text-align: right;">Page 21</p> <p>1 then, my other supervisor, it would have been Al or</p> <p>2 Alex, but he was -- on a typical day, he would be my</p> <p>3 supervisor that would have checked me out in the</p> <p>4 morning.</p> <p>5 Q. Do you happen to remember Tony or Alex's last names?</p> <p>6 A. I do not remember their last names, unfortunately.</p> <p>7 Q. Okay. And what did you do with your load sheet when</p> <p>8 you were done with it?</p> <p>9 A. You would either give it right to Supervisor Tony, or</p> <p>10 you would put it in the basket right at his desk.</p> <p>11 Q. Were you aware if the load sheets were ever scanned in</p> <p>12 on a scanner at any point?</p> <p>13 A. I believe they would -- if I'm not mistaken, they</p> <p>14 would take it to the scanner, and they would scan it</p> <p>15 back to the warehouse until they had the paperwork for</p> <p>16 the next day.</p> <p>17 Q. And who was they that would do the scanning?</p> <p>18 A. Supervisor Tony or whoever. That would be my</p> <p>19 supervisor, so Tony.</p> <p>20 Q. I see. Okay. So I'm going to put up on the screen</p> <p>21 here a document. I'm going to share it on the screen.</p> <p>22 Hopefully, you will be able to see it clearly enough,</p> <p>23 and let me see if I can find it here. I'll put it so</p> <p>24 it's nice and big and visible and -- all right. I'm</p> <p>25 putting on the screen a document. Can you see</p>

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22 to 25

<p style="text-align: right;">Page 22</p> <p>1 something on the document, Mr. Sujkowski? I mean on</p> <p>2 the screen there?</p> <p>3 A. Yes.</p> <p>4 Q. It says -- on top, it says page 1. Across the top, it</p> <p>5 says daily truck load sheet, water, route downtown,</p> <p>6 11047. Unfortunately, I do not have a Bates number on</p> <p>7 this document. Have you seen this document before,</p> <p>8 Mr. Sujkowski?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And what is it?</p> <p>11 A. That is just a load sheet. It's standard, just giving</p> <p>12 you how much of a certain quantity of a product you</p> <p>13 wanted on your truck and where you wanted it located on</p> <p>14 your truck.</p> <p>15 Q. I'm going to scroll down a little bit. Is this little</p> <p>16 graphic on the bottom here, the left side, it says,</p> <p>17 front, is that a graphic showing where on the truck it</p> <p>18 would be?</p> <p>19 A. Yes.</p> <p>20 Q. And -- okay. And so there's a date on it that says</p> <p>21 3/3/2022. What would that date signify?</p> <p>22 A. That date should signify the next day's route, if I'm</p> <p>23 not mistaken.</p> <p>24 Q. Okay.</p> <p>25 A. The day of the route, yeah.</p>	<p style="text-align: right;">Page 24</p> <p>1 next to it. Would that mean that you were only taking</p> <p>2 that particular type of product for that following</p> <p>3 day?</p> <p>4 A. For that particular truckload, yes. You only have</p> <p>5 that one product going on the truck.</p> <p>6 Q. And for the list of the products there, you can review</p> <p>7 them, could you say if -- which ones were or were not</p> <p>8 typical for you to take?</p> <p>9 A. I'm sorry. For the?</p> <p>10 Q. List of documents. I believe some of them say DIS 3</p> <p>11 gallon, and its product number is 600, 400, DIS 5</p> <p>12 gallon. Do you see the list of products about the</p> <p>13 middle of the page on the left?</p> <p>14 A. Yes.</p> <p>15 Q. Which of these products can you say were typical or</p> <p>16 not typical for you to take on any given day?</p> <p>17 A. All of them --</p> <p>18 MR. FRISCH: Objection, vague, but you can</p> <p>19 answer.</p> <p>20 A. All of them were standard products, and I do recognize</p> <p>21 all of them, and I would typically deliver them, yes.</p> <p>22 BY MR. CUMMINGS:</p> <p>23 Q. Okay. All right. I will stop sharing the screen at</p> <p>24 the moment. And, Mr. Sujkowski, how was your pay</p> <p>25 determined or calculated that you received from</p>
<p style="text-align: right;">Page 23</p> <p>1 MR. CUMMINGS: And so I'm going to</p> <p>2 designate this as Exhibit 1, and I will forward it</p> <p>3 around right after the deposition. So, first, we just</p> <p>4 got ahold of this document, and we will forward it.</p> <p>5 We will Bates number it and send it around, hopefully,</p> <p>6 if not by the end of the day, first thing tomorrow. I</p> <p>7 have a couple more of these. I will --</p> <p>8 MR. FRISCH: Note our continuing objection</p> <p>9 to the use of documents that were not produced</p> <p>10 previously in discovery. Discovery has closed, and I</p> <p>11 don't think this is proper. We're being sandbagged</p> <p>12 with documents. This is kind of like a moving target</p> <p>13 in this whole case, and we object to the use of these</p> <p>14 undisclosed documents both in the deposition and at</p> <p>15 any point beyond in this case.</p> <p>16 MR. CUMMINGS: Understood.</p> <p>17 BY MR. CUMMINGS:</p> <p>18 Q. I'm putting another document in front of you, Mr.</p> <p>19 Sujkowski. I'll make it smaller so you can see most</p> <p>20 of it. Is this also a load sheet, the type you were</p> <p>21 talking about?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And now just looking -- there's a list of</p> <p>24 different products there. And for this particular</p> <p>25 case, it looks like you have only one with a number</p>	<p style="text-align: right;">Page 25</p> <p>1 Absopure?</p> <p>2 A. We received a daily rate, and if our commissions</p> <p>3 exceeded that daily rate, then we would earn money on</p> <p>4 commission.</p> <p>5 Q. And do you know how the commission was calculated?</p> <p>6 A. It was based on a percentage of how much product we</p> <p>7 delivered.</p> <p>8 Q. I'm going to put another document on the screen for</p> <p>9 you shortly, and give me a minute. I will try to find</p> <p>10 a relatively clear example of one. I am putting on</p> <p>11 the screen a page of a document. The whole document</p> <p>12 in particular bears Bates numbers 5044 through 5095.</p> <p>13 This particular page, I will scroll down. It has the</p> <p>14 Bates number 5067. And, Mr. Sujkowski, can you see</p> <p>15 this document?</p> <p>16 A. Yes, I can.</p> <p>17 Q. Can you recognize the document?</p> <p>18 A. I would say that, yes, I do recognize it, yes.</p> <p>19 Q. Is there a name that you have referred to this</p> <p>20 document by?</p> <p>21 A. Nothing that I can recall, no.</p> <p>22 Q. And what is the document showing?</p> <p>23 A. I would -- it appears to be showing total commission</p> <p>24 earned, total pay earned, for the week of 8/2 to</p> <p>25 8/6/2021.</p>

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUSTIN GUY, individually and on
behalf of those similarly situated,
Plaintiff,

vs. Case No. 20-cv-12734-MAG-EAS

HON. MARK A. GOLDSMITH

ABSOPURE WATER COMPANY, LLC
a domestic limited liability company,
Defendant.

The Deposition of DAVID SUJKOWSKI,
Taken in Carleton, Michigan,
Commencing at 4:05 p.m.,
Thursday, July 6, 2023,
Before Laurie R. Mayer, CSR-5385.

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2 to 5

<p>Page 2</p> <p>1 REMOTE APPEARANCES:</p> <p>2</p> <p>3 ANDREW R. FRISCH</p> <p>4 8151 Peters Road, Suite 4000</p> <p>5 Plantation, Florida 33324</p> <p>6 (954) WORKERS</p> <p>7 afrisch@forthepeople.com</p> <p>8 Appearing on behalf of the Plaintiff.</p> <p>9</p> <p>10 MICHAEL O. CUMMINGS</p> <p>11 Cummings, McClorey, Davis & Acho, P.L.C.</p> <p>12 1185 Avenue of The Americas, Third Floor</p> <p>13 (212) 547-8810</p> <p>14 mcummings@cmda-law.com</p> <p>15 N.Y. Bar No. 2701506</p> <p>16 Appearing on behalf of the Defendant.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 4</p> <p>1 Carleton, Michigan</p> <p>2 Thursday, July 6, 2023</p> <p>3 4:05 p.m.</p> <p>4</p> <p>5 DAVID SUJKOWSKI,</p> <p>6 was thereupon called as a witness herein, and after</p> <p>7 having first been duly sworn to testify to the truth,</p> <p>8 the whole truth and nothing but the truth, was</p> <p>9 examined and testified as follows:</p> <p>10 EXAMINATION</p> <p>11 BY MR. CUMMINGS:</p> <p>12 Q. Mr. Sujkowski, would you please state your full name</p> <p>13 for the record?</p> <p>14 A. David Andrew Sujkowski.</p> <p>15 Q. And what is your current address?</p> <p>16 A. 2705 Dunlop, D-u-n-l-o-p, Street, Trenton, Michigan</p> <p>17 48183.</p> <p>18 Q. Thank you. Have you ever had your deposition taken</p> <p>19 before?</p> <p>20 A. I have not, no.</p> <p>21 Q. I will go over some of the ground rules and some of</p> <p>22 the things that will happen so you will have an</p> <p>23 understanding. The first thing is, do you understand</p> <p>24 that you are under oath and that potentially if you</p> <p>25 said anything knowingly false, you might be subject to</p>
<p>Page 3</p> <p>1 TABLE OF CONTENTS</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4 DAVID SUJKOWSKI</p> <p>5</p> <p>6 EXAMINATION</p> <p>7 BY MR. CUMMINGS: 4</p> <p>8 EXAMINATION</p> <p>9 BY MR. FRISCH: 42</p> <p>10 RE-EXAMINATION</p> <p>11 BY MR. CUMMINGS: 43</p> <p>12</p> <p>13 EXHIBITS</p> <p>14</p> <p>15 EXHIBIT PAGE</p> <p>16 (Exhibits retained by counsel.)</p> <p>17</p> <p>18 EXHIBIT 1</p> <p>19 EXHIBIT 2</p> <p>20 EXHIBIT 3</p> <p>21 EXHIBIT 4</p> <p>22 EXHIBIT 5</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 penalties for perjury?</p> <p>2 A. Yes.</p> <p>3 Q. And as you just did, please continue to answer</p> <p>4 questions affirmatively, yes or no verbally, rather</p> <p>5 than nodding your head. That will help us</p> <p>6 tremendously.</p> <p>7 A. Understood.</p> <p>8 Q. And, also, please try to listen to my full question.</p> <p>9 Sometimes the question and the answer will seem</p> <p>10 obvious to you when I'm halfway through, but I would</p> <p>11 still please ask you to wait until I finish my</p> <p>12 question, so for the court reporter both to get it</p> <p>13 down clearly in the transcript and to also give your</p> <p>14 attorney any chance to object. Do you understand</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. And, also, I would like you not to guess for any</p> <p>18 answers that -- or any questions that I ask. It would</p> <p>19 be fine if you can give an approximation, say</p> <p>20 approximately when or how long or something, but not</p> <p>21 guess. Do you understand that?</p> <p>22 A. Yes.</p> <p>23 Q. And I'm going to ask, would you please, if you do not</p> <p>24 understand my question either because of audio issues</p> <p>25 or you don't understand it, please let know, okay?</p>

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<p style="text-align: right;">Page 6</p> <p>1 A. Understood.</p> <p>2 Q. Now, is there anything going on with you today?</p> <p>3 Sometimes medication or other drugs or other issues</p> <p>4 that might prevent you from understanding my questions</p> <p>5 and answering them fully?</p> <p>6 A. No.</p> <p>7 Q. Now, you are here today because you were once employed</p> <p>8 at Absopure Water Company; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. Do you recall the dates that you were there?</p> <p>11 A. February of 2021 to March of 2022.</p> <p>12 Q. What was your position or positions when you were</p> <p>13 there?</p> <p>14 A. My job title was listed as sales and service</p> <p>15 specialist.</p> <p>16 Q. And for what reason did you leave in March of 2022?</p> <p>17 A. I found another job opportunity.</p> <p>18 Q. Are you currently employed?</p> <p>19 A. Yes.</p> <p>20 Q. What is your current position and employer?</p> <p>21 A. I am a senior accountant with Imlach Movers in</p> <p>22 Trenton.</p> <p>23 Q. And for the first part here, I'm going to ask some</p> <p>24 questions about your job duties when you were with</p> <p>25 Absopure. And I would like to step you through --</p>	<p style="text-align: right;">Page 8</p> <p>1 can -- typically?</p> <p>2 A. Five-gallon water jugs, cases of water. And then</p> <p>3 after -- any coolers, if you retrieved those, as well,</p> <p>4 if you had coolers for the day, as well.</p> <p>5 Q. And how did the coolers get on the truck?</p> <p>6 A. I would put them on there. I would find the coolers</p> <p>7 that were a part of my route after I checked my</p> <p>8 inventory. Then I would go find my coolers, then</p> <p>9 place them on the truck.</p> <p>10 Q. Did you ever put any -- and the coolers were to be --</p> <p>11 was it correct that these coolers were to be placed in</p> <p>12 customer locations?</p> <p>13 A. Yes.</p> <p>14 Q. Did you ever have any other equipment that you placed</p> <p>15 in customer locations?</p> <p>16 A. There would be special items like coffee or any sort</p> <p>17 of coffee accessories that were picked up before you</p> <p>18 would leave the facility.</p> <p>19 Q. Did you ever pick up a coffee maker or anything like</p> <p>20 that?</p> <p>21 A. Yes, periodically, there would be a coffee maker or</p> <p>22 say a cup sleeve for a water cooler that someone</p> <p>23 requested and specialty items like that that would</p> <p>24 come along every now and then.</p> <p>25 Q. And was there a typical amount of coolers that you</p>
<p style="text-align: right;">Page 7</p> <p>1 just so you understand, I will step you through your</p> <p>2 day. Did you work at the Plymouth facility?</p> <p>3 A. Yes.</p> <p>4 Q. And what was the very first thing you did when you</p> <p>5 arrived at work each day?</p> <p>6 A. I held my badge up to their time clock, or I guess let</p> <p>7 them know that I was there for the day.</p> <p>8 Q. Did you do that every day?</p> <p>9 A. Yes.</p> <p>10 Q. And what did you do next?</p> <p>11 A. I would go to my mailbox and retrieve my paperwork.</p> <p>12 Q. And what was the paperwork that you retrieved?</p> <p>13 A. It consisted of special deliveries, my route, all of</p> <p>14 my stops for that day and any other additional notes</p> <p>15 that needed to be passed along.</p> <p>16 Q. I apologize. I forgot that I had not put my video on.</p> <p>17 So now you can see me. And what did you do after</p> <p>18 retrieving your paperwork?</p> <p>19 A. I went through it, made any notes that I needed --</p> <p>20 that I wanted to personally, for the day.</p> <p>21 Q. And then what did you do next?</p> <p>22 A. I took my paperwork and went out to my truck to do an</p> <p>23 inventory of what was on there to verify everything</p> <p>24 was correct.</p> <p>25 Q. And what kind of products were on the truck -- and you</p>	<p style="text-align: right;">Page 9</p> <p>1 would take with you on any given day?</p> <p>2 A. It would range quite a bit. I would say on a typical</p> <p>3 day, you were looking at, let's say three to four.</p> <p>4 Q. Was there a maximum number that you took with you?</p> <p>5 A. I believe I -- about 30 of them.</p> <p>6 Q. Okay. How often, to the best you can recall, would</p> <p>7 you take say more than 10 -- or 10 or more?</p> <p>8 A. I would say -- let's say 5, 5 to 10 times, I did that.</p> <p>9 Q. And that would be during the entire time that you</p> <p>10 worked?</p> <p>11 A. During my duration there, yes.</p> <p>12 Q. Okay. And after you obtained the coolers or whatever</p> <p>13 other equipment and checked or -- and looked at the</p> <p>14 inventory on your truck, what did you do next?</p> <p>15 A. You would -- if the inventory was correct, then you</p> <p>16 would pull your truck around and load everything into</p> <p>17 the handheld for your supervisor to check off on.</p> <p>18 Q. And what was the handheld that you just mentioned?</p> <p>19 A. Well, a handheld device that preloaded our inventory</p> <p>20 and our routes for the day, to check off that each</p> <p>21 delivery, each stop was completed. And then once it</p> <p>22 was completed, it printed out a receipt to hand to the</p> <p>23 customer.</p> <p>24 Q. And what do you mean by preloaded? Was that -- was</p> <p>25 some information in the handheld when you first got it</p>

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10 to 13

<p style="text-align: right;">Page 10</p> <p>1 in the morning?</p> <p>2 A. Our route was for the day. Once our supervisor</p> <p>3 checked off, it was preloaded on there. So all of our</p> <p>4 stops coincided with what was on our paperwork.</p> <p>5 Q. And did, at some point in the morning, did you pick up</p> <p>6 the handheld or get it?</p> <p>7 A. Yes. Typically, I would -- that would be one of the</p> <p>8 first things I would do. You would get your handheld,</p> <p>9 yes.</p> <p>10 Q. Was that before or after you got your paperwork, for</p> <p>11 example?</p> <p>12 A. It would be right at the same time.</p> <p>13 Q. And you said you would -- you said something about --</p> <p>14 I don't want to -- if I understand correctly, about</p> <p>15 putting the inventory into the handheld when you got</p> <p>16 to your truck. What would that be?</p> <p>17 A. Yeah. How I typically did it was, I would put the</p> <p>18 inventory into the handheld once I got back to the</p> <p>19 office. I verified everything on my paperwork as far</p> <p>20 as inventory being complete, and then I would load it</p> <p>21 into the handheld at the office right before handing</p> <p>22 it to my supervisor.</p> <p>23 Q. And how did you -- go ahead, please.</p> <p>24 A. Yeah. Right before I handed it to my supervisor for</p> <p>25 him to go through his process.</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yes, I guess that -- yeah, you would go verify that</p> <p>2 they had the inventory of coffee on hand, and you</p> <p>3 would enter that on to your inventory sheet and then</p> <p>4 proceed to go to the manager for the final checkoff.</p> <p>5 Q. And, again, after you -- the final checkoff with the</p> <p>6 manager, what did you do then?</p> <p>7 A. Then they would have us just kind of do a walkthrough</p> <p>8 with the truck, make sure the truck was in good</p> <p>9 operating conditions, and I guess that would coincide</p> <p>10 with the final checkoff. They would do a walkthrough</p> <p>11 with the truck, make sure it was in good conditions.</p> <p>12 And we would go through this little checklist, I</p> <p>13 guess, of making sure everything on the truck was</p> <p>14 okay, and if there were any issues to note them.</p> <p>15 Q. Did you have a name for the checklist that you went</p> <p>16 through or a term you used for it?</p> <p>17 A. Not specifically, not that I can recall.</p> <p>18 Q. Did you go through that checklist with the manager?</p> <p>19 A. Yes, there were -- yeah, on a typical day, we would go</p> <p>20 through the checklist, and they would make sure that</p> <p>21 everything was good to go.</p> <p>22 Q. And you did that -- was this after you drove your</p> <p>23 truck out of the warehouse area?</p> <p>24 A. Yes, yeah, the truck would be out in front of the</p> <p>25 office for the supervisor to observe.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. I see. And how would you load it into the handheld?</p> <p>2 A. I would just match up item numbers with what was on</p> <p>3 the handheld and with what was on my physical</p> <p>4 paperwork or my inventory sheet. And then that's --</p> <p>5 make sure everything agreed.</p> <p>6 Q. And you said you gave it to your manager for his</p> <p>7 process. What was the manager's process that you</p> <p>8 mentioned?</p> <p>9 A. Specifically, I don't know as far -- it was basically</p> <p>10 handed to him, and I think it was just kind of like a</p> <p>11 final checkoff like, yeah, he's ready to go. That</p> <p>12 would be my best understanding.</p> <p>13 Q. I see. And then what did you do after handing it off</p> <p>14 and -- I guess, I assume you got it back from the</p> <p>15 manager then?</p> <p>16 A. Uh-huh.</p> <p>17 Q. And then what would you do after that?</p> <p>18 A. If I had any special items, like coffee, anything</p> <p>19 along those lines, go and retrieve those to put onto</p> <p>20 the truck.</p> <p>21 Q. And when you retrieved, did you also make some input</p> <p>22 into the handheld about the coffee items?</p> <p>23 A. Yes, yes. That would be included, yeah.</p> <p>24 Q. So would you do that before you gave the handheld to</p> <p>25 the manager or after?</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. And once that inspection off the checklist was done,</p> <p>2 what did you do then?</p> <p>3 A. Then once that was done, the handheld was all set,</p> <p>4 everything was -- supervisors checked off, then you</p> <p>5 were ready to proceed, start your route.</p> <p>6 Q. Okay. Now, is there something that was called</p> <p>7 checking out the truck?</p> <p>8 A. I guess if that type of terminology was used, then</p> <p>9 it's nothing that I was familiar with.</p> <p>10 Q. Was there some kind of input into the handheld that</p> <p>11 signified that your manager -- you and your manager</p> <p>12 had agreed to the inventory that was on the truck that</p> <p>13 day?</p> <p>14 A. Yes, two receipts of the printout, and we would each</p> <p>15 initial one copy of the receipt.</p> <p>16 Q. Okay. And was there something that you pressed or did</p> <p>17 on the handheld at that point?</p> <p>18 A. No, he would go through his, and then the receipt --</p> <p>19 his process. Then he would -- then it would print out</p> <p>20 on the printer, and then we would each initial, and he</p> <p>21 would keep a copy, and then I would keep a copy</p> <p>22 throughout the day on my route.</p> <p>23 Q. Okay. How long would it typically take from the time</p> <p>24 you swiped, you said your card, or put your card by</p> <p>25 the sheet in the morning until the time you finished</p>

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14 to 17

<p style="text-align: right;">Page 14</p> <p>1 your printing out the receipts with your manager? How</p> <p>2 much time would that typically take on any given day?</p> <p>3 A. I would say typically like 30 to 40 minutes.</p> <p>4 Q. Okay. Were there times when it was significantly</p> <p>5 shorter or longer?</p> <p>6 A. I wouldn't say significantly shorter. If there were</p> <p>7 days that the inventory was incorrect or the truck was</p> <p>8 not preloaded altogether, then there were days that</p> <p>9 was significantly longer.</p> <p>10 Q. How long could it be?</p> <p>11 A. Anywhere to an hour, an hour and a half.</p> <p>12 Q. Okay. If you can, how long would -- how often would</p> <p>13 you say -- you said, I believe, 30 to 40 minutes. How</p> <p>14 often was it longer than 45 minutes in this morning</p> <p>15 process from the time you came in until the time you</p> <p>16 print out the receipts?</p> <p>17 A. If I had to, I would say that would happen a couple</p> <p>18 times a month. I would say two to three times a</p> <p>19 month.</p> <p>20 Q. Did you ever fuel the truck?</p> <p>21 A. No.</p> <p>22 Q. Then once you print out the receipts, you said you</p> <p>23 would -- would you start out on driving the truck for</p> <p>24 the day?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 they're taking, what quantity of product they're</p> <p>2 taking and deliver it to them. The only difference is</p> <p>3 there's no empty water jugs for those.</p> <p>4 Q. I see. And you mentioned something about printing out</p> <p>5 receipts in the handheld. Were you printing receipts</p> <p>6 while you were making stops on your routes?</p> <p>7 A. Yes.</p> <p>8 Q. Now, were you ever receiving any cash or checks from</p> <p>9 customers at your routes?</p> <p>10 A. Yes, there were some people that paid cash on</p> <p>11 delivery.</p> <p>12 Q. And, approximately, how long did it typically take you</p> <p>13 to do your route?</p> <p>14 A. With it being the downtown Detroit route, there were a</p> <p>15 lot of, I would say, detours. So, honestly, most days</p> <p>16 it would be difficult to finish my route. So I was</p> <p>17 out there from -- basically all day and did as much as</p> <p>18 I could.</p> <p>19 Q. By all day, could you give an approximation on hours</p> <p>20 that it would take?</p> <p>21 A. I would stay out there until most businesses closed,</p> <p>22 so about 5:00 -- between 4:30 and 5:00 is when I would</p> <p>23 head back.</p> <p>24 Q. Going back to the very beginning of the day, what time</p> <p>25 or times did you typically arrive first at work in the</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Were you assigned a particular route?</p> <p>2 A. Most of my time was spent in the downtown Detroit</p> <p>3 area.</p> <p>4 Q. Do you recall if that was given a route number?</p> <p>5 A. If it was, I do not recall what it was.</p> <p>6 Q. Okay. And how many stops were typically on your</p> <p>7 route?</p> <p>8 A. On a given day, 30 to 40.</p> <p>9 Q. And could you run -- briefly run through what you</p> <p>10 would do at each stop?</p> <p>11 A. A normal stop would consist of looking at a handheld</p> <p>12 or the paperwork for the type of water and quantity</p> <p>13 that a particular customer took, and then proceed to</p> <p>14 go to the customer, drop off, deliver their water and</p> <p>15 take their empty bottles.</p> <p>16 Q. And when you said -- was that for a residential</p> <p>17 customer?</p> <p>18 A. That would be for residential and business customers.</p> <p>19 Q. Okay. Did you -- about what percentage of your</p> <p>20 customers that you can recall received coffee products</p> <p>21 of some kind?</p> <p>22 A. I would say five percent.</p> <p>23 Q. Okay. And would the -- your activities at a stop with</p> <p>24 coffee products be any different?</p> <p>25 A. No, it would be the same process, check what product</p>	<p style="text-align: right;">Page 17</p> <p>1 morning?</p> <p>2 A. I would typically arrive between -- any times between</p> <p>3 6:45 and 7:30.</p> <p>4 Q. I see. And then you mentioned typically it would be</p> <p>5 30 to 40 minutes before you got on the road after</p> <p>6 that; is that correct?</p> <p>7 A. Correct, yes.</p> <p>8 Q. Okay. Then what happened -- now, you said you -- is</p> <p>9 it correct then that you said you typically did not</p> <p>10 get to all of your stops on any given day?</p> <p>11 A. More times than not, yes, that is correct.</p> <p>12 Q. And what would happen if you didn't get to your stops</p> <p>13 on a particular day?</p> <p>14 A. They would get moved to the next day, and then I would</p> <p>15 make a priority to get to them, yeah.</p> <p>16 Q. Did you find yourself in situations where you got</p> <p>17 behind on making stops where you couldn't -- there</p> <p>18 were more -- do you understand what I mean, that you</p> <p>19 couldn't quite catch up the next day or in a number of</p> <p>20 days? Did that occur?</p> <p>21 A. Yes, yes.</p> <p>22 Q. And what would happen in those situations?</p> <p>23 A. I mean, it would just be a situation where you would</p> <p>24 almost have to prioritize. If there was special stops</p> <p>25 or if there were call-ins, you would have to</p>

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18 to 21

<p style="text-align: right;">Page 18</p> <p>1 prioritize, I guess, on a level of importance. If you</p> <p>2 got to know your customers and you got to kind of get</p> <p>3 a good feel, then you could say, okay, I think they're</p> <p>4 going to be good for a day or two until I can get to</p> <p>5 them.</p> <p>6 Q. I see. Did you ever have to do an extra route or an</p> <p>7 extra set of deliveries to catch up?</p> <p>8 A. No. Well, I did have to work -- there were some</p> <p>9 Saturdays that we would work as if we -- during a busy</p> <p>10 time, I would say. There was a -- so then we would</p> <p>11 work six days that week to help play catchup.</p> <p>12 Q. How often did you work on Saturdays?</p> <p>13 A. During my time there, I would say I worked five or six</p> <p>14 Saturdays.</p> <p>15 Q. The total time, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Now, once you finished your route for the day,</p> <p>18 what steps did you take?</p> <p>19 A. You would go into the -- you would drive back. You</p> <p>20 would get to the facility. Then you would go straight</p> <p>21 to the warehouse. And one of the warehouse workers</p> <p>22 would verify your inventory and get your empties off</p> <p>23 the truck. And then you would pull the truck around</p> <p>24 and park it and proceed to the office.</p> <p>25 Q. How did the warehouse worker verify your inventory?</p>	<p style="text-align: right;">Page 20</p> <p>1 for the day. Then you would -- if they were</p> <p>2 available, you would go to your supervisor and then</p> <p>3 discuss the route for the day and then preview the</p> <p>4 next day's route.</p> <p>5 Q. And after meeting with your supervisor, what would you</p> <p>6 do?</p> <p>7 A. If everything for the next day's route looked good, he</p> <p>8 would show you your pay for the day, how much you</p> <p>9 earned in commission, and then you would -- he would</p> <p>10 print out an inventory sheet and a -- I guess a --</p> <p>11 like it's a lot (phonetic) sheet -- or a breakdown of</p> <p>12 your truck, and you would go through how you would</p> <p>13 like your truck loaded for the next day.</p> <p>14 Q. Have you ever heard the term, load sheet?</p> <p>15 A. Yes, load sheet, yeah. That's what I was trying to</p> <p>16 think of, yeah.</p> <p>17 Q. And that was a document you filled out to determine</p> <p>18 what would be loaded on your truck the following day;</p> <p>19 is that correct?</p> <p>20 A. Yes, correct.</p> <p>21 Q. Okay. Who were the -- your supervisor or supervisors</p> <p>22 that you met with at the end of the day there?</p> <p>23 A. It was primarily Tony. He was primarily the one that</p> <p>24 would work in the afternoons when we got -- or</p> <p>25 evenings when we got back. And then every now and</p>
<p style="text-align: right;">Page 19</p> <p>1 A. He would -- you would open up all your doors and walk</p> <p>2 around the truck and check the inventory on it.</p> <p>3 Q. During this part of the verifying, did the warehouse</p> <p>4 worker do anything with the handheld device that you</p> <p>5 had?</p> <p>6 A. Yes, he would have to do it, what I would deem a</p> <p>7 check-in process, enter the inventory for each</p> <p>8 particular product. Then after he was done with his</p> <p>9 process, a receipt would print out and he would</p> <p>10 initial.</p> <p>11 Q. And then after receiving that receipt that he</p> <p>12 initialed, what did you do next?</p> <p>13 A. Then you -- that's -- at that point, you would get</p> <p>14 back and then close up the truck, drive around and</p> <p>15 then park the truck and collect everything.</p> <p>16 Q. Then after that, what did you do?</p> <p>17 A. Then you would proceed to the office and then you</p> <p>18 would take your handheld, put that and any cash you</p> <p>19 may have acquired throughout the day and your</p> <p>20 receipts, and give it to who I believe was an</p> <p>21 accounting individual.</p> <p>22 Q. Okay. And then did you do anything after that?</p> <p>23 A. They would go through their process, collect all the</p> <p>24 receipts, cash, give you your handheld and printer,</p> <p>25 say you're all set, put your handheld away to charge</p>	<p style="text-align: right;">Page 21</p> <p>1 then, my other supervisor, it would have been Al or</p> <p>2 Alex, but he was -- on a typical day, he would be my</p> <p>3 supervisor that would have checked me out in the</p> <p>4 morning.</p> <p>5 Q. Do you happen to remember Tony or Alex's last names?</p> <p>6 A. I do not remember their last names, unfortunately.</p> <p>7 Q. Okay. And what did you do with your load sheet when</p> <p>8 you were done with it?</p> <p>9 A. You would either give it right to Supervisor Tony, or</p> <p>10 you would put it in the basket right at his desk.</p> <p>11 Q. Were you aware if the load sheets were ever scanned in</p> <p>12 on a scanner at any point?</p> <p>13 A. I believe they would -- if I'm not mistaken, they</p> <p>14 would take it to the scanner, and they would scan it</p> <p>15 back to the warehouse until they had the paperwork for</p> <p>16 the next day.</p> <p>17 Q. And who was they that would do the scanning?</p> <p>18 A. Supervisor Tony or whoever. That would be my</p> <p>19 supervisor, so Tony.</p> <p>20 Q. I see. Okay. So I'm going to put up on the screen</p> <p>21 here a document. I'm going to share it on the screen.</p> <p>22 Hopefully, you will be able to see it clearly enough,</p> <p>23 and let me see if I can find it here. I'll put it so</p> <p>24 it's nice and big and visible and -- all right. I'm</p> <p>25 putting on the screen a document. Can you see</p>

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22 to 25

<p style="text-align: right;">Page 22</p> <p>1 something on the document, Mr. Sujkowski? I mean on</p> <p>2 the screen there?</p> <p>3 A. Yes.</p> <p>4 Q. It says -- on top, it says page 1. Across the top, it</p> <p>5 says daily truck load sheet, water, route downtown,</p> <p>6 11047. Unfortunately, I do not have a Bates number on</p> <p>7 this document. Have you seen this document before,</p> <p>8 Mr. Sujkowski?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And what is it?</p> <p>11 A. That is just a load sheet. It's standard, just giving</p> <p>12 you how much of a certain quantity of a product you</p> <p>13 wanted on your tuck and where you wanted it located on</p> <p>14 your truck.</p> <p>15 Q. I'm going to scroll down a little bit. Is this little</p> <p>16 graphic on the bottom here, the left side, it says,</p> <p>17 front, is that a graphic showing where on the truck it</p> <p>18 would be?</p> <p>19 A. Yes.</p> <p>20 Q. And -- okay. And so there's a date on it that says</p> <p>21 3/3/2022. What would that date signify?</p> <p>22 A. That date should signify the next day's route, if I'm</p> <p>23 not mistaken.</p> <p>24 Q. Okay.</p> <p>25 A. The day of the route, yeah.</p>	<p style="text-align: right;">Page 24</p> <p>1 next to it. Would that mean that you were only taking</p> <p>2 that particular type of product for that following</p> <p>3 day?</p> <p>4 A. For that particular truckload, yes. You only have</p> <p>5 that one product going on the truck.</p> <p>6 Q. And for the list of the products there, you can review</p> <p>7 them, could you say if -- which ones were or were not</p> <p>8 typical for you to take?</p> <p>9 A. I'm sorry. For the?</p> <p>10 Q. List of documents. I believe some of them say DIS 3</p> <p>11 gallon, and its product number is 600, 400, DIS 5</p> <p>12 gallon. Do you see the list of products about the</p> <p>13 middle of the page on the left?</p> <p>14 A. Yes.</p> <p>15 Q. Which of these products can you say were typical or</p> <p>16 not typical for you to take on any given day?</p> <p>17 A. All of them --</p> <p>18 MR. FRISCH: Objection, vague, but you can</p> <p>19 answer.</p> <p>20 A. All of them were standard products, and I do recognize</p> <p>21 all of them, and I would typically deliver them, yes.</p> <p>22 BY MR. CUMMINGS:</p> <p>23 Q. Okay. All right. I will stop sharing the screen at</p> <p>24 the moment. And, Mr. Sujkowski, how was your pay</p> <p>25 determined or calculated that you received from</p>
<p style="text-align: right;">Page 23</p> <p>1 MR. CUMMINGS: And so I'm going to</p> <p>2 designate this as Exhibit 1, and I will forward it</p> <p>3 around right after the deposition. So, first, we just</p> <p>4 got ahold of this document, and we will forward it.</p> <p>5 We will Bates number it and send it around, hopefully,</p> <p>6 if not by the end of the day, first thing tomorrow. I</p> <p>7 have a couple more of these. I will --</p> <p>8 MR. FRISCH: Note our continuing objection</p> <p>9 to the use of documents that were not produced</p> <p>10 previously in discovery. Discovery has closed, and I</p> <p>11 don't think this is proper. We're being sandbagged</p> <p>12 with documents. This is kind of like a moving target</p> <p>13 in this whole case, and we object to the use of these</p> <p>14 undisclosed documents both in the deposition and at</p> <p>15 any point beyond in this case.</p> <p>16 MR. CUMMINGS: Understood.</p> <p>17 BY MR. CUMMINGS:</p> <p>18 Q. I'm putting another document in front of you, Mr.</p> <p>19 Sujkowski. I'll make it smaller so you can see most</p> <p>20 of it. Is this also a load sheet, the type you were</p> <p>21 talking about?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And now just looking -- there's a list of</p> <p>24 different products there. And for this particular</p> <p>25 case, it looks like you have only one with a number</p>	<p style="text-align: right;">Page 25</p> <p>1 Absopure?</p> <p>2 A. We received a daily rate, and if our commissions</p> <p>3 exceeded that daily rate, then we would earn money on</p> <p>4 commission.</p> <p>5 Q. And do you know how the commission was calculated?</p> <p>6 A. It was based on a percentage of how much product we</p> <p>7 delivered.</p> <p>8 Q. I'm going to put another document on the screen for</p> <p>9 you shortly, and give me a minute. I will try to find</p> <p>10 a relatively clear example of one. I am putting on</p> <p>11 the screen a page of a document. The whole document</p> <p>12 in particular bears Bates numbers 5044 through 5095.</p> <p>13 This particular page, I will scroll down. It has the</p> <p>14 Bates number 5067. And, Mr. Sujkowski, can you see</p> <p>15 this document?</p> <p>16 A. Yes, I can.</p> <p>17 Q. Can you recognize the document?</p> <p>18 A. I would say that, yes, I do recognize it, yes.</p> <p>19 Q. Is there a name that you have referred to this</p> <p>20 document by?</p> <p>21 A. Nothing that I can recall, no.</p> <p>22 Q. And what is the document showing?</p> <p>23 A. I would -- it appears to be showing total commission</p> <p>24 earned, total pay earned, for the week of 8/2 to</p> <p>25 8/6/2021.</p>

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26 to 29

<p style="text-align: right;">Page 26</p> <p>1 Q. Okay. And I don't know if you can see it. It's a 2 little bit dark. The column -- can you see the column 3 heading in the gray? I think it's name is the first 4 column on the left and date, and then sales, 5 parentheses, 8 percent. Can you see those column 6 headings on your version? 7 A. Yes, I can. 8 Q. And the third column from the left, it says 8 -- sales 9 in parentheses, 8 percent. What does that refer to, 10 or what does that mean that's in the column? 11 A. The amount of sales made from the product I delivered. 12 Q. So that would be -- would that be the total sale 13 prices of the products you delivered on that day if 14 you were to add them up? 15 A. Yes. 16 Q. Okay. And it says -- the next column says units, 8 17 percent. And what does that refer to? 18 A. The total quantity delivered of the product. 19 Q. And the quote end quote -- it says, the next column -- 20 I believe it's -- now we're talking the fifth from 21 left, it says, COM, 8 percent. What does that column 22 refer to? 23 A. The commission earned. 24 Q. I see. And, now, going on the same three columns -- 25 now, do you understand how that column, 8 percent --</p>	<p style="text-align: right;">Page 28</p> <p>1 be the sum total of the sales at 8 percent and sales 2 at 16 percent? 3 MR. FRISCH: Objection, vague. 4 MR. CUMMINGS: I'm sorry. I'm not sure 5 that that was clear. 6 MR. FRISCH: I said -- my objection was 7 vague. 8 MR. CUMMINGS: Okay. It just broke up. 9 BY MR. CUMMINGS: 10 Q. Now, I want to go to -- let's see. The total, it 11 says, total prod COM column. What is your 12 understanding of that column? 13 A. That is the total product commission that was earned 14 based on what was delivered. 15 Q. And that would be what the total product commission 16 that you would have earned on each one of those days, 17 correct? 18 A. To my understanding, that is correct. 19 Q. And what does the EQ column represent? 20 A. That, I am unsure of. So that, I'm -- that column, 21 I'm unsure of. 22 Q. Okay. And this particular sheet has two columns that 23 just have dashes in them. It says, unit bonus and EQ 24 bonus. Do you know what those are? 25 A. No, I do not know what those would be pertaining to.</p>
<p style="text-align: right;">Page 27</p> <p>1 it says column with the 8 percent, was calculated? 2 A. Yes. 3 Q. How was that calculated? 4 A. It is 8 percent of the third column from the left. 5 Q. The column that says sales, 8 percent, correct? 6 A. That is my understanding, yes. 7 Q. And then there's three columns that go sales, 16 8 percent and units, 16 percent and COMs, 16 percent. 9 Are those similar -- is the sales, 16 percent, 10 total -- a list of total sales of certain products for 11 each day? 12 A. Yes. 13 Q. And then the same with the units? It's a certain 14 number of certain number of units for each product 15 every day? 16 A. Yes, it's the same with the 16 percent columns. 17 That's how much was the sales price; if that was 18 delivered, how many units were delivered, and the 19 commission earned that was delivered. 20 Q. And just a shortcut. So does the column that says 21 COM, 16 percent represent a 16 percent of the column 22 that says sales, 16 percent? Would that be correct? 23 A. That would be my understanding, yes. 24 Q. And total sales -- I'm not going to ask you to do the 25 math per se, but is your understanding -- would that</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Now, the second column from the right says base on 2 top. What does that refer to? 3 A. That would be our base pay, our daily rate. 4 Q. Okay. And the column on the far right, it says total 5 COM. What does that represent? 6 A. That was total commission for products that were 7 delivered. 8 Q. And by total commission -- let me see here. Let me 9 get my columns correctly. So by total commission, is 10 it correct to say that's an amount that was above the 11 amount that's in the column on the -- it's the first 12 column -- second column from the right that says base? 13 A. Yes, that was the amount that exceeded the \$120 daily 14 rate. 15 Q. And if you don't mind, I'm going to scroll down. I'm 16 looking at, I'm thinking of one of these. Let me see 17 if I can find something here. I'm going to -- I'm on 18 another page now. I'm on Bates number 5064, and I 19 would ask you to take a minute to look at the column, 20 particularly the columns in them, and take as long as 21 you need to take to see if that would be the same 22 answers that you gave me for the meaning of those 23 columns and the numbers in them that you gave me 24 previously. If there's any exceptions or something 25 you don't understand in that, please let me know, and</p>

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<p style="text-align: right;">Page 30</p> <p>1 take as long as you need. I'm in no hurry here.</p> <p>2 A. From what I'm reading, everything agrees with what was</p> <p>3 presented on the other slip.</p> <p>4 Q. And I'm going to ask you to focus on the far right</p> <p>5 column where it says, total COM again. And on the</p> <p>6 second line item down, there is a dash there. What</p> <p>7 does that dash there mean?</p> <p>8 A. There was no additional commission earned above the</p> <p>9 \$120 daily rate.</p> <p>10 Q. So if I go over on that same line, five columns to the</p> <p>11 left, under the -- it says total prod COM. Where it</p> <p>12 says 99.72, what is that 99.72 number?</p> <p>13 A. That would be total product commission earned.</p> <p>14 Q. And is it correct to say that for that day on your</p> <p>15 route, you would have received -- for that day, you</p> <p>16 would have been paid the base rate and only the base</p> <p>17 rate for that day; is that correct?</p> <p>18 A. That is correct, yes.</p> <p>19 Q. And then to confirm, for the other columns on the</p> <p>20 right, you would have received on the days --</p> <p>21 representing the other days of that week, you would</p> <p>22 have received the base plus the far right column</p> <p>23 where it says total COM; is that correct?</p> <p>24 A. Yes, that is correct.</p> <p>25 Q. Okay. Did anyone, at any point, explain this way of</p>	<p style="text-align: right;">Page 32</p> <p>1 looking at the top, it looks at the pay period from --</p> <p>2 it says about the second set of columns -- rows down,</p> <p>3 pay period, 11/15/21 to 11/28/21. The particular</p> <p>4 Bates number of this one is 003154, and these -- this</p> <p>5 is a group of Mr. Sujkowski's pay stubs that were</p> <p>6 produced in the -- I believe I have the -- I am</p> <p>7 looking for the range here, from 3031 to 3057. And as</p> <p>8 I mentioned off the record, we can supply this one as</p> <p>9 an exhibit -- this one page as an exhibit, and we will</p> <p>10 redact all the personal information out of it. So I</p> <p>11 would like to turn your attention to what is about</p> <p>12 25 -- you know, a quarter of the way down. There's a</p> <p>13 box on the left, more less on the left side that --</p> <p>14 and there's a narrow column. It says earnings. Under</p> <p>15 that, there's a description, hours, day, current, and</p> <p>16 YTD. Under that, there's a series of numbers with --</p> <p>17 next on the rows, regular vacation and HS --</p> <p>18 commission and HSER payment. Mr. Sujkowski, do you</p> <p>19 see what I'm referring to there?</p> <p>20 A. Yes.</p> <p>21 Q. And there's a row that says regular and current hours,</p> <p>22 slash, days, current. And do you know what the</p> <p>23 numbers in that row refer to?</p> <p>24 A. Let's see. Are you referring to the regular and then</p> <p>25 the hours --</p>
<p style="text-align: right;">Page 31</p> <p>1 calculating your payment to you?</p> <p>2 A. That, I cannot recall. I'm sure it was went over at</p> <p>3 our orientation, but I kind of -- I figured out the</p> <p>4 structure on my own from these slips.</p> <p>5 Q. And the slips, when did you -- do you recall when or</p> <p>6 how often you received these slips?</p> <p>7 A. They were mailed to us.</p> <p>8 Q. Okay. How often were they mailed to you?</p> <p>9 A. We would have received them every week.</p> <p>10 Q. Okay. Now, I'm going to find another document.</p> <p>11 Please bear with me a minute to make sure I get the</p> <p>12 right one. Unfortunately, my particular copies I have</p> <p>13 here are not searchable, so you will have to bear with</p> <p>14 me just a minute while I scroll through things.</p> <p>15 Rather than take up more time, I will just -- I'm</p> <p>16 going to be putting up your pay statement, and I</p> <p>17 wanted to see -- I thought I had that one for -- that</p> <p>18 particular week that -- we looked that up, but I will</p> <p>19 find another pay statement that we can use. I'm going</p> <p>20 to share the screen here. Just a minute. So I'm</p> <p>21 putting up a document. Can you see a document on the</p> <p>22 screen now, Mr. Sujkowski?</p> <p>23 A. Yes.</p> <p>24 Q. And I'm going to state for the record, this is an</p> <p>25 unredacted and confidential pay statement. And</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. No, just the regular. We will go down columns, but</p> <p>2 some I think might be -- but there's a regular, and it</p> <p>3 says 9.0.</p> <p>4 A. Yes.</p> <p>5 Q. What does that 9.0 refer to?</p> <p>6 A. Number of days worked for that pay period.</p> <p>7 Q. And the current -- what is the number, the 1260</p> <p>8 number -- 1260 number that refers to under the current</p> <p>9 column?</p> <p>10 MR. FRISCH: If you know.</p> <p>11 THE WITNESS: I'm sorry?</p> <p>12 BY MR. CUMMINGS:</p> <p>13 Q. Do you know what that number refers to under the</p> <p>14 current column, the one that says --</p> <p>15 A. How much regular pay was from that pay period.</p> <p>16 Q. And by regular pay, do you happen to mean -- I'm not</p> <p>17 trying to put words in your mouth, the base rate you</p> <p>18 would have received for those nine days?</p> <p>19 A. That would be my understanding, yes.</p> <p>20 Q. Okay. And not to make you do math here, that number</p> <p>21 would come out to \$140 per day. Did you have -- did</p> <p>22 you have differing -- varying numbers of base rates</p> <p>23 during the time that you worked at Absopure? Because</p> <p>24 we saw an earlier one that says 120 per day, and I am</p> <p>25 looking at one here that says -- it looks like it's</p>

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<p>1 numbers, I will just represent, 140 a day. I want to</p> <p>2 see if your recollection if you, at one point, had a</p> <p>3 base rate of 140 per day.</p> <p>4 A. Yes, during the later term -- time during I was there,</p> <p>5 they raised the daily rate from 120 to 140.</p> <p>6 Q. And so skipping down ahead to holiday, would it be</p> <p>7 correct to say that the 2.0 and the 280 next to it,</p> <p>8 would it be correct to say that that means you had two</p> <p>9 holidays you were paid for and at \$140 per day?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And the fifth row down there says commission,</p> <p>12 and going over it, it says 849.66. What does that</p> <p>13 number represent?</p> <p>14 A. To my understanding, that would be the amount,</p> <p>15 commission earned during that pay period.</p> <p>16 Q. And would that be the -- would it be, to your</p> <p>17 understanding, the commission that you were paid over</p> <p>18 and above whatever the base rate was for those days?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And if I understand, this covers a period of</p> <p>21 two weeks; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Now, unfortunately, I couldn't get my hands on them</p> <p>24 right away, and if this question doesn't make sense,</p> <p>25 that's fine. But if I were to go -- if I recall the</p>	<p>1 A. Are you speaking from the moment that we -- that the</p> <p>2 check-in was with the warehouse employee?</p> <p>3 Q. Yes, from that moment, when you would have (inaudible)</p> <p>4 the receipt, I recall.</p> <p>5 A. Yes, I would say from that moment, that time frame, on</p> <p>6 a standard day, 20 to 30 minutes.</p> <p>7 Q. I see. Were there longer or shorter times than that?</p> <p>8 A. If there were -- nothing shorter. Standard would be</p> <p>9 20 to 30 minutes. If there was any longer, I don't</p> <p>10 recall.</p> <p>11 Q. Was there any other occasional -- you gave me a list</p> <p>12 of things that you typically did from those -- during</p> <p>13 that time period, from the check-in with the warehouse</p> <p>14 person until the time you left. Were there any other</p> <p>15 kind of activities that might come up that you can</p> <p>16 recall that would take longer that weren't typical but</p> <p>17 came up occasionally?</p> <p>18 A. Nothing that I can recall, no.</p> <p>19 Q. Okay. And give me a minute. I'm going to put another</p> <p>20 document in front of you, and I will put it on the</p> <p>21 screen here. For the record, this is a document</p> <p>22 bearing Bates numbers 0177 through 0208. On the</p> <p>23 screen currently, we're showing that the first page of</p> <p>24 it was 0177. Mr. Sujkowski, do you see that, the</p> <p>25 document?</p>
<p>1 commission -- of the statements about commission that</p> <p>2 we looked at previously, were at one a week basis. Do</p> <p>3 you recall that?</p> <p>4 A. I'm sorry. You cut out on my screen.</p> <p>5 Q. I'm sorry. Never mind. I said -- so would you have</p> <p>6 received -- I'm going to ask the question. For that</p> <p>7 person's commission -- for the dates of the</p> <p>8 commission, I will call them commission numbers, and</p> <p>9 the other regular and numbers, would you have received</p> <p>10 a piece of paper with those same commission columns</p> <p>11 that we looked at previously? Would you have received</p> <p>12 those that should add up to these numbers? Is that</p> <p>13 your understanding?</p> <p>14 A. That is how I would understand it, yes.</p> <p>15 Q. Okay. All right. That's good enough for here. And</p> <p>16 I'm going to show you -- do you know what? So I think</p> <p>17 I may have forgotten to ask you questions about your</p> <p>18 daily routine. I wanted to get back to that. At the</p> <p>19 end of the day when you brought your truck back to the</p> <p>20 facility, I want to ask you, if you can recall, from</p> <p>21 the time that you confirmed your inventory with the</p> <p>22 warehouse personnel when you brought your truck back</p> <p>23 on the handheld until the time you finished for the</p> <p>24 day, do you have a recollection of how long that</p> <p>25 typically took?</p>	<p>1 A. Yes.</p> <p>2 Q. Do you recognize this document?</p> <p>3 A. I -- that appears to be the handbook that would have</p> <p>4 been given out.</p> <p>5 Q. Okay. I'm going to scroll through it for you, and</p> <p>6 I'll do it at a moderate pace. If you want me to stop</p> <p>7 or want to look at anything more closely, let me know,</p> <p>8 and to see -- so you can see the pages. And I'm not</p> <p>9 going to stop any longer on one particular area just</p> <p>10 yet. And I'll scroll at about this pace all the way</p> <p>11 through. I think it should take me no more than 35</p> <p>12 seconds to finish this just for completion sake. I'm</p> <p>13 going to -- what I'm going to ask you when I get to</p> <p>14 the bottom is, did you ever read through this document</p> <p>15 that you recall?</p> <p>16 A. Not that I can recall.</p> <p>17 Q. But do you recall at least seeing the cover sheet to</p> <p>18 the document?</p> <p>19 A. I can't recall that, as well.</p> <p>20 Q. Do you recall if anyone ever mentioned the document --</p> <p>21 this document to you?</p> <p>22 A. Not that I can recall. It would have been -- if it</p> <p>23 would have been, it would have been when we started,</p> <p>24 but I don't recall.</p> <p>25 Q. And then I'm going to -- we'll put that up. I'll just</p>

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<p style="text-align: right;">Page 38</p> <p>1 mark this as the next exhibit. I think we're up to 3.</p> <p>2 If somehow I've missed something, we will mark it</p> <p>3 accordingly later. And the next document here, give</p> <p>4 me a minute. We will stop this for just a second. I</p> <p>5 will try to quickly get another document up for you.</p> <p>6 Okay. And -- okay. I will now share it. I have put</p> <p>7 on the screen a document. At the top, it says,</p> <p>8 verification and consent, agreement and</p> <p>9 acknowledgement. The particular document bears the</p> <p>10 Bates stamps number 2025. And, Mr. Sujkowski, I'll</p> <p>11 ask you, do you recognize this document?</p> <p>12 A. I recognize it as an acknowledgement with my</p> <p>13 signature.</p> <p>14 Q. And that is your signature on it?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And I'll read the first part, the first</p> <p>17 paragraph. It says, understand that my associate</p> <p>18 handbook outlines my privileges and benefits as well</p> <p>19 as my responsibilities and obligations as an associate</p> <p>20 of Absopure Water Company. Do you recall having read</p> <p>21 that?</p> <p>22 A. I can't -- I'm sure they asked me to read it. I can't</p> <p>23 recall if I read it or not or if I skimmed it. I</p> <p>24 cannot recall.</p> <p>25 Q. Do you recall whether or not you signed this document</p>	<p style="text-align: right;">Page 40</p> <p>1 having or not having a Commercial Driver's License</p> <p>2 meant for your position at Absopure?</p> <p>3 MR. FRISCH: Objection, vague.</p> <p>4 You can answer if you understand what he's</p> <p>5 asking.</p> <p>6 A. I did not understand -- I didn't understand the</p> <p>7 difference between having it and not having it, no.</p> <p>8 BY MR. CUMMINGS:</p> <p>9 Q. When you first began at Absopure, did you spend</p> <p>10 anytime driving with another person when you began?</p> <p>11 A. Yes.</p> <p>12 Q. And what was that? How often and who, if you recall?</p> <p>13 A. I spent one week with one driver and then the next</p> <p>14 three days and the next week with another driver.</p> <p>15 Q. Do you recall who those drivers were?</p> <p>16 A. The first driver's name was Andrew Mumford, and the</p> <p>17 second driver was Ron Calhoun. I believe that was his</p> <p>18 last name.</p> <p>19 Q. And you had mentioned previously that you had a</p> <p>20 supervisor by the name of Tony. Do you recall his</p> <p>21 last name?</p> <p>22 A. I do not, no.</p> <p>23 Q. If I said the name Tony Freeze, would that -- or</p> <p>24 Freeze, would that refresh your recollection?</p> <p>25 A. Not -- that sounds right, but not entirely.</p>
<p style="text-align: right;">Page 39</p> <p>1 sometime at the beginning of your employment at</p> <p>2 Absopure?</p> <p>3 A. Since -- I would agree to that because that is my</p> <p>4 signature.</p> <p>5 Q. I see. And that is -- the date on the bottom is --</p> <p>6 by any chance, do you recognize whether or not that</p> <p>7 date that's written in there, 2/1/21, is that your</p> <p>8 handwriting?</p> <p>9 A. Yes.</p> <p>10 MR. CUMMINGS: Okay. I think I'm probably</p> <p>11 done with my questions. If it's okay with everybody</p> <p>12 else, I thought I might take just a very short break.</p> <p>13 I may have one or two more questions, and then Mr.</p> <p>14 Frisch might have some questions. Is that okay with</p> <p>15 everybody?</p> <p>16 MR. FRISCH: Yes.</p> <p>17 MR. CUMMINGS: We'll take just a short</p> <p>18 break. Off the record.</p> <p>19 (Off the record at 5:03 p.m.)</p> <p>20 (Back on the record at 5:10 p.m.)</p> <p>21 BY MR. CUMMINGS:</p> <p>22 Q. Mr. Sujkowski, did you have a Commercial Driver's</p> <p>23 License while you were working with Absopure?</p> <p>24 A. I did not.</p> <p>25 Q. Did you have an understanding of what significance</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Okay. And you mentioned another manager by the name</p> <p>2 of Alex. Do you recall that person's last name?</p> <p>3 A. I do not, no.</p> <p>4 Q. If I said the name Alex Mecks (phonetic), would that</p> <p>5 refresh your memory as to who that Alex was?</p> <p>6 A. That sounds correct, yes.</p> <p>7 Q. Can you recall the names of any other supervisors or</p> <p>8 managers that you worked with?</p> <p>9 A. Not that I can recall, no.</p> <p>10 Q. Can you recall any of the names of the people you</p> <p>11 would have dealt with handing in your paperwork to, or</p> <p>12 your handheld to, at the end of the day?</p> <p>13 A. I cannot recall their names, no.</p> <p>14 Q. Okay. Now, you had mentioned for me some typical</p> <p>15 times that you spent at the beginning of the day</p> <p>16 between the time you arrived and the time that you</p> <p>17 left with the truck for the day and also the other</p> <p>18 side of the day between a checking in, printing it</p> <p>19 with the warehouse person and leaving for the day.</p> <p>20 I'm asking, did you make any observations or can</p> <p>21 recall any observations about the times that other</p> <p>22 truck drivers would have spent either in the morning</p> <p>23 time or in the afternoon time?</p> <p>24 A. Not a --</p> <p>25 Q. Go ahead, please.</p>

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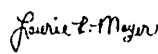
42 to 45

<p style="text-align: right;">Page 42</p> <p>1 A. Not a specific pattern that I can recall, no.</p> <p>2 Q. On either side. Like to just give an example. I'm</p> <p>3 not trying to put anything in your head. If you</p> <p>4 regularly worked with another driver and you happened</p> <p>5 to know how long his time in the morning was before he</p> <p>6 left or same in the evening. Do you have any</p> <p>7 recollection along those lines?</p> <p>8 A. There was nothing that I really monitored that</p> <p>9 closely, no.</p> <p>10 MR. CUMMINGS: Okay. That ends my</p> <p>11 questions.</p> <p>12 MR. FRISCH: I just have a few follow-up</p> <p>13 questions.</p> <p>14 EXAMINATION</p> <p>15 BY MR. FRISCH:</p> <p>16 Q. Did you drive a variety of different types of vehicles</p> <p>17 during your period of your employment with Absopure,</p> <p>18 or was it always the same type of vehicle?</p> <p>19 A. I drove different types of vehicles, yes.</p> <p>20 Q. Did you ever drive -- my understanding is they had --</p> <p>21 in addition to, I guess, bigger trucks, they also had</p> <p>22 vans that were used for the deliveries; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. Were you one of the drivers who drove the vans on</p> <p>25 occasion?</p>	<p style="text-align: right;">Page 44</p> <p>1 make -- I mean, on how many days did you have to make</p> <p>2 a second run?</p> <p>3 A. Approximately -- just about every time.</p> <p>4 Q. Every time that you drove the van?</p> <p>5 A. Yes.</p> <p>6 MR. CUMMINGS: Okay. I have no further</p> <p>7 questions.</p> <p>8 MR. FRISCH: He will read, and we'll take a</p> <p>9 copy if Mr. Cummings orders.</p> <p>10 MR. CUMMINGS: Yes, we will be ordering.</p> <p>11 COURT REPORTER: Are both orders e-trans?</p> <p>12 MR. FRISCH: That would be fine with us.</p> <p>13 MR. CUMMINGS: Yes, we're fine with that.</p> <p>14 (Deposition concluded at 5:17 p.m.</p> <p>15 Signature of the witness was requested.)</p>
<p style="text-align: right;">Page 43</p> <p>1 A. Yes.</p> <p>2 Q. Do you know -- can you give me an approximation of how</p> <p>3 many times you think during your employment you drove</p> <p>4 a van to complete your deliveries?</p> <p>5 A. An approximate, 15 to 20 times.</p> <p>6 MR. FRISCH: Okay. Thanks. I have nothing</p> <p>7 further.</p> <p>8 MR. CUMMINGS: I will just follow up.</p> <p>9 RE-EXAMINATION</p> <p>10 BY MR. CUMMINGS:</p> <p>11 Q. What were the circumstances under which you would have</p> <p>12 driven a van?</p> <p>13 A. If there were trucks that were unavailable due to --</p> <p>14 or requiring maintenance.</p> <p>15 Q. Would you have -- did you drive the vans on your</p> <p>16 regular routes? You said it was downtown?</p> <p>17 A. I -- yes, I would have taken a van down there, yes.</p> <p>18 Q. Okay. When you did that, was there ever an issue with</p> <p>19 having enough product to complete your route on the</p> <p>20 van?</p> <p>21 A. Typically, there would have not been enough product on</p> <p>22 the van to complete my entire route. I would have had</p> <p>23 to go back to Plymouth and then head back out for a</p> <p>24 second run.</p> <p>25 Q. So did you have to -- how often did you have to</p>	<p style="text-align: right;">Page 45</p> <p>1 JUSTIN GUY, individually and on</p> <p>2 behalf of those similarly situated,</p> <p>3 Plaintiff,</p> <p>4 vs. Case No. 20-cv-12734-MAG-EAS</p> <p>5 HON. MARK A. GOLDSMITH</p> <p>6 ABSOPURE WATER COMPANY, LLC</p> <p>7 a domestic limited liability company,</p> <p>8 Defendant.</p> <p>9</p> <p>10</p> <p>11 VERIFICATION OF DEPONENT</p> <p>12</p> <p>13 I, having read the foregoing deposition</p> <p>14 consisting of my testimony at the aforementioned time</p> <p>15 and place, do hereby attest to the correctness and</p> <p>16 truthfulness of the transcript.</p> <p>17</p> <p>18</p> <p>19</p> <p>20 DAVID SUJKOWSKI</p> <p>21 Dated:</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

David Sujkowski
July 06, 2023

46 to 47

1	ERRATA SHEET		Page 46
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3	PAGE	LINE	CORRECTION
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1	CERTIFICATE OF REPORTER		Page 47
2			
3	STATE OF MICHIGAN)		
4) SS		
5	COUNTY OF MONROE)		
6			
7	I hereby certify that I reported		
8	stenographically the foregoing proceedings and		
9	testimony under oath at the time and place		
10	hereinbefore set forth; that thereafter the same was		
11	reduced to computer transcription under my		
12	supervision; and that this is a full, true, complete		
13	and correct transcription of said proceedings.		
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21	_____		
22	Laurie R. Mayer, CSR-5385		
23	Notary Public		
24	Monroe County, Michigan		
25	My Commission expires: August 9, 2025		